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COMMITTEE ON THE RIGHTS OF THE CHILD

Seventh session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child:
Madagascar

1. The Committee considered the initial report of Madagascar (CRC/C/8/Add.5) at its 163rd to 165th meetings, held on 29 and 30 September 1994, and adopted* the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation for the detailed and comprehensive report submitted by Madagascar as well as for the extensive additional information provided in its written responses to the list of issues. The Committee welcomes the openness reflected in the report with respect to difficulties encountered in the implementation of the Convention. In this connection, the Committee endorses, in general, the many recommendations contained in the report aimed at improving the effective application of the Convention in Madagascar. The Committee regards the report as a valuable document which may be used in Madagascar in promoting awareness of the Convention, especially in regard to its application in law and practice.

3. The Committee also expresses it appreciation to the delegation for its frank and open attitude which contributed to a constructive dialogue with the Committee. In this regard, the Committee takes note of the statement made by

* Adopted at the 183rd meeting, held on 14 October 1994.

the delegation regretting that it had not been possible to include representatives from the departments concerned with the actual implementation of the Convention in Madagascar.

B. Positive aspects

4. The Committee welcomes the establishment of the Intersectoral Follow-up Committee which drafted the initial report and which is envisaged as a permanent coordinating body to ensure an effective follow-up in close evaluation and monitoring of the situation of children in Madagascar, as well as an appropriate follow-up in close collaboration with NGOs. The Committee expresses its satisfaction that representatives of international organizations are included in the follow-up committee, which may facilitate better coordination in the area of international cooperation and development assistance aimed at improving the situation of children in Madagascar.

C. Factors and difficulties impeding the implementation of the Convention

5. The Committee notes the difficulties facing the Government of the Republic of Madagascar in a period of political transition.

6. The Committee also notes that natural disasters and severe economic problems have had a negative impact on the situation of children. The Committee recognizes that certain traditional values in the rural areas have not favoured the rapid implementation of the Convention.

D. Principal subjects of concern

7. The Committee is concerned that the fundamental legal and administrative reforms needed to apply the Convention have still not been fully undertaken in Madagascar. As a result, many of the laws affecting children date from the period immediately following independence and would need to be brought into full conformity with the principles and provisions of the Convention.

8. The Committee notes with concern the persistence of disparities in the enjoyment of the rights recognized by the Convention between the different regions of the country, to the detriment in particular of girls, rural children and children living in situations of extreme poverty. The Committee is also concerned that lasting prejudices and traditional beliefs affect certain groups of children, including disabled children and children born on a certain day of the week (considered to bring bad luck), preventing them from fully enjoying the rights recognized by the Convention.

9. The Committee is concerned that the national legislation establishes a different minimum age for marriage between boys and girls and that it authorizes the marriages of girls as young as 14 years of age who have obtained parental consent from the father or the mother. Such situations may raise the question of compatibility with the principles of non-discrimination and the best interests of the child, in particular as these children will be considered as adults and therefore no longer eligible for the protection afforded by the Convention. Furthermore, the Committee is concerned about the legal status of children born out of wedlock, particularly of incestuous unions.

10. The Committee is concerned at the difficulties to ensure birth registration of children. Such a situation implies the non-recognition of these children as persons before the law, which will affect the level of enjoyment of their fundamental rights and freedoms. In addition, such children are not included in relevant statistical and other information on children and their situation, therefore, cannot be properly monitored.

11. The Committee is concerned about the problems associated with ill-treatment, abuse and violence directed towards children in school and in the family, which is reinforced by social custom. In this connection, the Committee notes with concern that child abuse has not yet been clearly addressed, that adequate legal remedies for abused children do not exist and that there are inadequate safeguards against reprisals against children who report abuse.

12. With respect to basic health and welfare, the Committee notes with concern that in Madagascar, children have increasingly had difficulty in obtaining access to adequate primary health care and that many continue to suffer from lack of medicine and safe drinking water. In particular, the Committee is concerned over the alarming trend that child immunization is on the decrease.

13. With respect to education, the Committee notes with concern that there has been little progress in implementing the relevant articles of the Convention and that, in particular, the number of hours during which schools are open have been restricted, that teacher training has been inadequate and that a high proportion of pupils drop out before finishing primary school. Moreover, the Committee is concerned at the difficulties arising from the changes introduced in the education system as far as the language of instruction is concerned.

14. With regard to child exploitation, the Committee is concerned that child labour continues to be a serious problem in Madagascar, particularly in the rural areas and in the informal sector. In this connection, the Committee notes with alarm that there is no effective inspection in rural areas to combat this problem nor is there labour legislation covering domestic workers.

15. With respect to sexual exploitation of the child, the Committee is concerned that insufficient measures have been taken to prevent and combat the incitement to child pornography as well as prostitution involving children living and/or working on the streets, particularly children who are victimized by tourists.

16. With regard to the administration of juvenile justice, the Committee is concerned that the existing legislation does not reflect the spirit or the provisions of the Convention. In particular, the Committee is concerned that children may be subject to situations of deprivation of liberty, namely lengthy pre-trial detention, and that they might not benefit from the safeguards recognized in the Convention, in the light of articles 37 and 40. The Committee is also concerned by the serious conditions in the correctional facilities which, as recognized by the delegation, may adversely affect the fulfilment of the State party's obligations under the Convention and other international human rights standards.

E. Suggestions and recommendations

17. The Committee recommends that the Government develop information and awareness campaigns on the principles and provisions of the Convention on the Rights of the Child, whenever appropriate in close cooperation with community and religious leaders, in order to create a wider awareness and contribute to the eradication of prevailing prejudices and cultural traditions which may be detrimental to the enjoyment of the rights of the child. It further suggests that special attention be paid to the training of professional groups, working with and for children, on the rights of the child.

18. The Committee recommends that the Government undertake a comprehensive review of national legislation, with a view to ensuring its full compatibility with the principles and provisions of the Convention. New legislation should be adopted in those areas where the protection of children is not yet adequately addressed, such as in the fields of child abuse and national and intercountry adoption or the administration of juvenile justice. To this end, the Committee suggests that the mandate of the Intersectoral Follow-up Committee be broadened accordingly.

19. The Committee emphasizes the importance of establishing an effective and permanent system of monitoring the implementation of the Convention and newly adopted legislation relating to children, and recognizes that the Intersectoral Follow-up Committee could be envisaged as the focal point for that purpose. The Committee also suggests that such a monitoring mechanism may strengthen its cooperation with NGOs and relevant professional groups, as well as religious and community leaders.

20. The Committee also recommends that serious consideration be given to the allocation of available resources, including those deriving from international development aid, in order that they be used, to the maximum extent possible, for the effective implementation of the economic, social and cultural rights of children, in particular those belonging to the most vulnerable groups.

21. With respect to child exploitation, the Committee recommends that efforts to prevent and combat child labour, in particular in the informal sector, be greatly intensified, and that the Government consider ratifying the ILO Minimum Age Convention, 1973 (No. 138). In this regard, the Committee further recommends that the State party consider seeking assistance from ILO, in particular with a view to reinforcing its capacity to monitor the Convention on the Rights of the Child.

22. With respect to the administration of juvenile justice, the Committee recommends that the necessary facilities be provided to implement fully the provisions of the Convention. The Committee further recommends that the law reform to be undertaken in this field adequately reflect the provisions of the Convention as well as other relevant international standards, such as "The Beijing Rules", the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. In this regard, it is suggested that serious attention be paid to the best interests and the dignity of the child, and the consideration of deprivation of liberty as a measure of last resort and for the minimum period possible. The Committee underlines the

importance of technical assistance programmes in this area and encourages the State party to consider requesting such assistance from the Centre for Human Rights as well as from the Crime Prevention and Criminal Justice Branch of the United Nations.

23. The Committee recommends that in the light of article 44, paragraph 6, of the Convention, the report submitted by the Government be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted thereon by the Committee.

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COMMITTEE ON THE RIGHTS OF THE CHILD

Seventh session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Preliminary observations of the Committee on the Rights of the Child: Paraguay

1. The Committee began consideration of the initial report of Paraguay (CRC/C/3/Add.17) at its 167th and 168th meetings (CRC/C/SR.167-168), held on 4 and 5 October 1994, and adopted* the following preliminary observations.

A. Introduction

2. The Committee expresses its appreciation to the State party for the submission of its initial report and for its willingness to engage in a dialogue with the Committee. The Committee welcomes the self-critical approach taken by the State party in its initial report, especially in indicating the factors and difficulties encountered in the implementation of the Convention. However, the Committee regrets that the information provided in the initial report and in the dialogue ensuing from its consideration is not sufficient for the Committee to form a complete and accurate assessment of the implementation of the rights of the child in Paraguay. Thus, the Committee requests the State party to submit an additional report to it within one year. The Committee would appreciate receiving within such a report more detailed and complete information in response to both the Committee's written list of issues (contained in document CRC/C.7/WP.2) and to the additional questions raised and concerns expressed by its members during the examination of the report, including with regard to priorities for action to implement the rights provided for under the Convention.

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* At the 183rd meeting, held on 14 October 1994.

B. Positive aspects

3. The Committee takes note that different mechanisms have been established within the State party to deal with questions relating to the situation of children. The intention of the State party to adopt a new Juvenile Code for improving the protection and promotion of the rights of the child is also noted. Additionally, the Committee wishes to draw attention to the provision incorporated within the Constitution that not less than 20 per cent of the national budget be devoted to education. It also notes that efforts are being undertaken by the State party to provide bilingual programmes within the primary education system.

C. Factors and difficulties impeding the implementation of the Convention

4. The Committee notes that Paraguay is going through a period of transition to democracy, having only recently emerged from a dictatorship form of governance. The Committee recognizes that the legacy of certain attitudes and traditions from this period hamper the effective implementation of the rights of the child.

D. Principal subjects of concern

5. The Committee is concerned that sufficient attention does not seem to have been paid to the development of a coordinating institution to monitor the implementation of the rights of the child in Paraguay. The Committee is equally concerned about the extent to which the bodies established to consider the situation of children are provided with the requisite support and resources in order to permit them to fulfil their designated functions. In addition, the Committee remains unclear as to the extent to which the process of reviewing the implementation of the rights of the child in the State party was designed to encourage and facilitate popular participation and public scrutiny of government policies.

6. The Committee is of the view that adequate measures have not yet been taken to make the principles and provisions of the Convention known to adults and children alike. Similarly, it is noted that professionals and personnel working with or for children, including military personnel, law enforcement officials, judges, health workers and teachers, lack sufficient training about the Convention on the Rights of the Child and other relevant international standards relating to the rights of the child.

7. The Committee wishes to express its general concern that the State party does not appear to have fully taken into account the provisions of the Convention, including its general principles, as reflected in its articles 2, 3, 6 and 12, in the legislative and other measures relevant to children in Paraguay. In this connection, the Committee notes that the low marriageable age for girls, presently standing at 12, and the fact that this age is lower for girls than boys are incompatible with the provisions of the Convention, including those of its article 2. In addition, the Committee is of the opinion that other legislation in force in Paraguay relating to the definition of the child with regard to the performance of military service and to the non-validity of children's statements in cases of alleged sexual abuse also

raises concern as to its compatibility with the spirit and purpose of the Convention, especially in ensuring that the best interests of the child shall be a primary consideration in all actions concerning children.

8. The Committee is generally concerned that Paraguayan society is not sufficiently sensitive to the needs and situation of the girl child. It also notes the persistence of discrimination against children belonging to minority and indigenous groups contrary to the provisions of article 2 of the Convention.

9. Moreover, within the framework of the application of article 4 of the Convention, relating to the allocation of resources to the maximum extent possible, the Committee is concerned about the insufficient portion of the national and local-level budgets allocated to social and human needs, especially with regard to responding to the situation of the most vulnerable groups of children. In this connection, the Committee wishes to emphasize the importance of the provisions of article 3 of the Convention, relating to the best interests of the child, in guiding deliberations and decisions on policy, including with regard to the allocation of human and economic resources for the implementation of the rights guaranteed under the Convention. The Committee also wishes to underline its concern about the adequacy of statistical and other data collection systems existing within the State party to assist in the formulation and design of strategies to implement the rights of the child.

10. The Committee is concerned that insufficient measures have been taken to implement the provisions of articles 7 and 8 of the Convention, particularly with regard to ensuring birth registration and that children are provided with the necessary registration certificates and other documents which accurately protect and preserve the elements of their identity. It is noted that the absence of appropriate measures for registration may seriously affect the level of the child's enjoyment of other fundamental rights and freedoms.

11. The Committee expresses its grave concern over the information brought to its attention of alleged trafficking in inter-country adoptions in violation of the provisions and principles of the Convention. It is further concerned about the absence of a normative framework in the field of inter-country adoptions, namely in the light of articles 3, 12 and 21 of the Convention.

12. The Committee notes that the social inequalities existing in the country, including through the unequal distribution of income and land, have contributed to the considerable problems facing children in Paraguay. The Committee is further concerned that the difficulties being faced by children living in rural and in disadvantaged urban areas may lead to their parents or guardians placing them in the service of wealthier families which frequently leads to the ill-treatment and abuse of these children.

13. The Committee is very much alarmed at reports it has received of the ill-treatment of children in detention centres. In view of the seriousness of such alleged violations, the Committee is concerned about the insufficient training provided to law enforcement officials and personnel of detention centres on the provisions and principles of the Convention and other relevant

international instruments such as "The Beijing Rules", the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

14. The Committee is concerned that, in spite of the fact that the educational system is undergoing a considerable process of reform, the problems of a low rate of access to and retention in school, as well as a high level of school drop-out, remain.

Further action

15. The Committee notes that, during the initial dialogue with the State party, matters relating to basic health and special protection measures were not addressed. The Committee recommends that the additional report requested of the State party cover these issues. In addition, the Committee wishes to be informed of the progress achieved with regard to the establishment of a national coordinating mechanism to monitor the rights of the child and of the participation of various bodies involved in promoting and protecting children's rights, including non-governmental organizations, in such monitoring activities. The Committee would also wish to be informed of the measures taken to ensure that the provisions of the Convention, particularly its articles 3, 12 and 21, are fully taken into consideration, including in the determination and application of legislation and procedures pertaining to the matter of adoption. In this connection, the Committee wishes to encourage the Government of Paraguay to consider ratifying the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption of 1993 and concluding bilateral agreements with the countries of prospective adoptive parents.

16. The Committee notes the statement contained in paragraph 160 of the State party report which indicates the importance the Government of Paraguay attaches to the Committee's advice on measures to be taken to improve the implementation of the rights of the child, and welcomes the State party's commitment to cooperating with the Committee and other United Nations bodies and agencies with a view to promoting and protecting the rights of the child. In this connection, the Committee takes further note of the technical cooperation currently provided to the Government of Paraguay through a joint programme supported by the Centre for Human Rights and the United Nations Development Programme. The Committee recommends that the concerns raised by the Committee with regard to the realization of the rights of the child should be incorporated within the activities organized under this joint programme.